

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

BLACKHAWK PAVING, INC. §
v. § CIVIL CASE NO. 4:20-CV-48-SDJ
CPCM, LLC, ET AL. §

**MEMORANDUM ADOPTING THE REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation of the United States Magistrate Judge (“Report”), this matter having been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On February 10, 2021, the Report of the Magistrate Judge, (Dkt. #35), was entered containing proposed findings of fact and recommendation that Defendant Thomas Pritzkau’s Motion to Set Aside, (Dkt. #24), be granted in part.

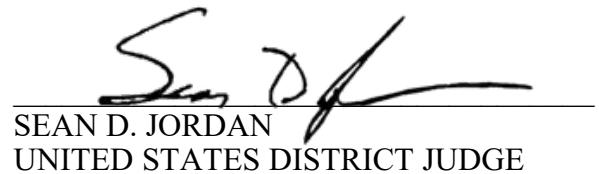
Specifically, the Magistrate Judge recommended as follows: (1) the Clerk’s Entry of Default, (Dkt. #12), be set aside solely as to Defendant Thomas Pritzkau; (2) Plaintiff Blackhawk Paving, Inc. receive \$7,500.00 in attorney’s fees, to be paid by Defendant Thomas Pritzkau, within forty-five days of entry of this memorandum adopting; and (3) if Defendant Thomas Pritzkau fails to pay Blackhawk’s attorney’s fees within forty-five days of entry of this memorandum adopting, Pritzkau’s answer or other responsive pleading will be stricken and the clerk’s entry of default as to Pritzkau will be reinstated. The Magistrate Judge also recommended that Defendant Thomas Pritzkau’s Amended Motion to Dismiss, (Dkt. #27), be denied without prejudice to refiling.

Having assessed the Report and the record in this case, and no objections to the Report having been timely filed, the Court determines that the Magistrate Judge's Report should be adopted.

It is therefore **ORDERED** that Defendant Thomas Pritzkau's Motion to Set Aside, (Dkt. #24), is **GRANTED in part**. The Clerk's Entry of Default, (Dkt. #12), is **SET ASIDE** solely as to Defendant Thomas Pritzkau. Plaintiff Blackhawk Paving, Inc. shall receive \$7,500.00 in attorney's fees, to be paid by Defendant Thomas Pritzkau, within forty-five days of entry of this memorandum adopting. Defendant Thomas Pritzkau's answer or other responsive pleading will be stricken and the clerk's entry of default will be reinstated if he fails to pay these attorney's fees within forty-five days of entry of this memorandum adopting.

It is further **ORDERED** that Defendant Thomas Pritzkau's Amended Motion to Dismiss, (Dkt. #27), is **DENIED without prejudice to refiling**.

So ORDERED and SIGNED this 26th day of February, 2021.



SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE